

REMARKS

Claims 1-4, 6-14, 16-41, and 43-70 remain in the application with claims 1 and 38 in independent form. No claims have been amended in the subject response.

Claims 1-4, 6-14, 16-41, and 43-70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuya et al. (JP 2000-271534) in view of Ramsden (United States Patent Application Publication US 2002/0019312 A1), Spencer et al. (United States Patent No. 6,242,056), Murayama et al. (United States Patent No. 5,424,006), Schimmel et al. (United States Patent No. 5,585,427), and Zhao et al. (United States Patent No. 6,036,999).

More specifically, the Examiner relies on the combination of Tatsuya et al. and Ramsden to reject the broad concept of the subject invention as claimed in independent claims 1 and 38 where the clearcoat composition comprises the phosphorescent pigment such that exposure of the phosphorescent pigment to an external incident energy source is maximized.

Accompanying this response, the Applicant respectfully submits a Declaration of Prior Invention under 37 C.F.R. §1.131 to negate Ramsden as an effective prior art reference. According to Section 715 of the Manual of Patent Examining Procedure (MPEP), it is “appropriate” to use a 37 C.F.R. §1.131 Declaration to antedate a reference that qualifies as prior art under 35 U.S.C. § 102(e) where the reference has a prior art date under 35 U.S.C. § 102(e) prior to Applicant’s effective filing date, and shows but does not claim the same patentable invention. Ramsden qualifies as prior art under 35 U.S.C. § 102(e). Furthermore, the “prior art date” of Ramsden is August 3, 2000 (its provisional filing date) and the effective filing date of the subject application is August 17, 2001. Therefore, Ramsden has a prior art date prior to Applicant’s effective filing date. Furthermore, an examination of the claims of Ramsden as compared to the claims of the present application reveals that Ramsden does not claim the same patentable invention. Simply stated, Ramsden is a 35 U.S.C. § 102(e) reference that is being used in a 35 U.S.C. § 103(a) combination along with Tatsuya et al. and the accompanying Declaration is effective to remove Ramsden as an effective prior art reference against the present

application. As can be seen by the accompanying Declaration, the inventors had reduced the subject invention to practice prior to August 3, 2000, which is the effective date of the reference to Ramsden.

In summary, the accompanying Declaration establishes that Ramsden is not prior art against the present application. Therefore, the rejection of independent claims 1 and 38 relying on the combination of Tatsuya et al. and Ramsden is improper and should be withdrawn. Independent claims 1 and 38, therefore, stand allowable over the prior art of record and the remaining claims depend, either directly or indirectly, from these independent claims such that the dependent claims are also allowable.

It is respectfully submitted that the Application is now presented in condition for allowance, which allowance is respectfully solicited.

No fees are believed to be due. However, if necessary, the Commissioner is authorized to charge Deposit Account No. 08-2789 for any additional fees or to credit the account for any overpayment.

Respectfully submitted,

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